

Commonwealth's Attorneys

Duties of Attorneys for the Commonwealth and their assistants

Code 15.2-1626,1627

Duties for the Commonwealth's Attorneys and their assistants can be found in the Code of Virginia.

Sharing Part-time Assistant Prosecutors

Code 15.2-1534

A Commonwealth's Attorney who desires to "share" a part-time prosecutor with another locality must obtain concurrence with the arrangement with a corresponding Commonwealth's Attorney. Items specified in such an agreement must include scheduling, remuneration and term of the arrangement. Such agreements may be terminated at any time by any participating Commonwealth's Attorney but no later than upon the election or appointment that replaces one of the Commonwealth's Attorneys who are party to the agreement. Additional information regarding the [Compensation Board Commonwealth's Attorneys Shared Part-time Prosecutor Policy](#) can be found on page 10.

Substitute Prosecutors

The Compensation Board has approved for reimbursement an additional allowance for Substitute Prosecutors.

Code 19.2-155

A temporary substitute prosecutor is appointed by the judge of the circuit court when the principal officer is unable to perform his/her duties. If the Circuit Court determines that the appointment of a Commonwealth's Attorney or assistant is not appropriate, or such an attorney is not available or for other good cause, then the court may appoint an attorney at law who will be compensated through the Supreme Court's Criminal Fund.

Full-time Commonwealth's Attorneys and full-time Assistant Commonwealth's Attorneys are reimbursed directly for travel expenses

incurred in service as a substitute prosecutor. [CB Form 24](#) is used to request travel reimbursement. The Compensation Board will not reimburse, without advance written approval, meals or lodging expenses incurred in excess the amounts shown.

Part-time attorneys may also request direct reimbursement of travel expenses on the [CB Form 24](#) provided they do not request hourly rate compensation for serving as a substitute prosecutor. **If the part-time attorney is requesting hourly rate compensation, they must complete [CB Form 22](#) and submit it to the Commonwealth's Attorney in the locality where they served as Substitute Prosecutor.** The office of the Commonwealth's Attorney will request reimbursement from the Compensation Board through the SNIP system.

All reimbursement requests must be submitted to the Compensation Board when either the expenses exceed \$300.00 or within 60 days after the conclusion of the case, whichever comes first. Requests submitted more than 120 days after the conclusion of the case, regardless of amount, will **not** be reimbursed.

All requests for reimbursement of expenses for substitute prosecutors must be filed on either the [CB Form 22](#) or [CB Form 24](#). A copy of the court order appointing the attorney and an itemized list of expenses including miles traveled and hours worked must be included with the form. Upon review, the Compensation Board, in its sole discretion, may deny reimbursement for expenses not reasonably incurred.

Video Presentation Equipment

Funding may be available under the FY 04 Fund Transfer Policy. Total cost may not exceed \$7,500 and may be requested no more frequently than every three years.

New Permanent Positions

The General Assembly did not approve any new positions for FY04.

Career Prosecutor Funding

Due to funding restrictions the Board has adopted the following policy regarding future career prosecutors. Currently funded career prosecutor positions funded in FY02 will remain funded. When a career prosecutor position becomes vacant you may fill that position as a career prosecutor. However, there is no funding for additional career prosecutor positions for any office.

Requests for additional career prosecutor funding must be certified to the Compensation Board by July 1 and if funding becomes available through General Assembly action, pay increases will become available on July 1 of the following fiscal year.

In the Tables section of this site you will find a table showing current career prosecutor positions by office and it is these positions that may not be exceeded without making the request and securing additional funding.

The following related information can be found on the Compensation Board website:

[Minimum Criteria for Career Prosecutor Program](#)
[Career Prosecutor Form \(CB10-CP\)](#)
[Career Prosecutor List](#)

Office Expenses

Compensation Board Policy

Listed below are reimbursable office expenses:

Virginia Association of Commonwealth's Attorneys Dues (Commonwealth's Attorney Only)

VALECO dues (Commonwealth's Attorney Only)

Internet access costs (line charges, ISP costs or locality service charges)

Data processing services, telephone service

Repairs to office furniture and equipment

Premiums for burglary and other insurance

Virginia State Bar Dues: fully reimbursed for full-time principal officer and full-time assistants in Compensation Board positions, 50% reimbursement for principal officers and assistants in part-time offices

Non-Reimbursable Office Expenses

Code 15.2-1636.15

The following are not reimbursable by the Compensation Board:

Notary Public seal, fees or application
Audit services
Telephone equipment installation costs
Subscriptions to periodicals, newspapers, Code of Virginia
Name tags, desk signs, business cards
Chair mats, custom software, calculator maintenance contracts
Taxes

If you have any questions concerning the reimbursable nature of any expense, please call the Compensation Board **prior** to expenditure.

Fines and Fees

Code 19.2-349

Attorneys for the Commonwealth are required to develop procedures for use in their office for the collections of fines, costs, penalties, forfeitures and restitution. The goal of collecting these debts is both financial and punitive. Outstanding fines and fees are potential revenue for the Commonwealth and the locality. HB2461, which passed in 2003, allows any Commonwealth's Attorney to contract for the collection of delinquent fines and fees with the Treasurer of their locality.

Appropriation Act language was added in 2003 that expands the pilot program for court debt collection to allow Commonwealth's Attorneys to contract with any private debt collection firm and give such firms authority to utilize all remedies available to the Department of Taxation under the Code of Virginia.

Commonwealth's Attorneys' Salary Charts

65-A.1 The annual salaries of attorneys for the Commonwealth shall be as hereinafter prescribed according to the population of the city or county served except as otherwise provided in §15.2-1636.12, Code of Virginia.

	July 1, 2003 to
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	June 30, 2004
Less than 10,000	43,478
10,000-19,999	48,315
20,000-34,999	53,145
35,000-44,999	95,659
45,000-99,999	106,286
100,000-249,999	110,271
250,000 and above	114,260

2. The attorneys for the Commonwealth and their successors who serve on a full-time basis pursuant to §15.2-1627.1, 15.2-1628, 15.2-1629, 15.2-1630 or 15.2-1631, Code of Virginia shall receive salaries as if they served localities with populations between 35,000 and 44,999.

3. Whenever an attorney for the Commonwealth is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such attorney for the Commonwealth under the provisions of this paragraph and such attorney for the Commonwealth shall receive as additional compensation the sum of one thousand dollars.

Maximum Rank Allocation

Due to budget reductions, additional funding will not be available in FY04 to provide maximum rank allocation to offices that do not currently have maximum rank.

Maximum rank allocation for Commonwealth's Attorneys' offices is as follows:

1 AAll in each full-time office 1 SECB in each part-time office 1 ATTIV* in each full-time office

- * The Compensation Board will approve additional reclassifications to the ATTIV grade level at no additional cost to the Compensation Board provided that the newly classified ATTIV positions supervise 3 or more attorneys. Funding for any salary increase associated with the reclassifications of additional ATTIV positions must be within the base budget approved by the Compensation Board.

Staffing Standards

COMPENSATION BOARD CRITERIA FOR ALLOCATING NEW ASSISTANT COMMONWEALTH'S ATTORNEY POSITIONS IN COMMONWEALTH'S ATTORNEYS' OFFICES

October 24, 2000

1. The position (or positions) must be requested by the Commonwealth's Attorney as part of the Compensation Board annual budget request process.
2. The basis of the request must be only the statutorily prescribed duty of the prosecution of felonies.
3. Funds and positions must be appropriated by the General Assembly.
4. The Compensation Board will use the staffing methodology and weighted three-year average workload criteria developed by the Virginia Association of Commonwealth's Attorneys (VACA), to determine the appropriate level of Compensation Board assistant Commonwealth's Attorney support for each office requesting additional positions.
5. The Compensation Board shall determine the number of additional positions to be allocated to any one office based upon criteria 1-4, inclusive, and additional positions shall be allocated in the order of percentage of need, where the offices with the highest percentage of need will receive positions first. The percentage of need is determined by calculating the percentage that the number of additional positions needed is of the total number of current positions.

Staffing Methodology

1. The formula calculates the sum of a three-year average of felony defendants plus a three-year average of sentencing events, resulting in an average total workload figure. The workload figure is divided by a specified factor that has been devised to take into account economies of scale in larger offices, with the result being the total number of attorney positions due in the office.

2. The data elements are as follows:

3-Year Average Defendants Data is the average of the number of felony defendants in the Circuit Court for each locality for the three most recent calendar years, as reported by the Supreme Court.

3-Year Average Sentencing Events is the average of the number of felony sentencing events in the Circuit Court for each locality for the three most recent calendar years as reported by the Virginia Sentencing Commission.

3. Offices are grouped based on the size of the office (determined by the average total workload figure), and assigned an escalating workload factor assuming economies of scale. Compensation Board funded assistant Commonwealth's Attorneys who are part-time (i.e., eligible to engage in private law practice) are to be considered as 0.5 of a F.T.E. position for staffing standards purposes, instead of as 1 F.T.E. position.

Office Size	Range of Workload Totals (avg defendants + avg sentencing events) per Office Size	Factor
SUPER	3,000+	125
LARGE	1,000-2,999	100
MID	300-999	85
SMALL	0-299	70

4. The formula is as follows:

$$\text{\# of Attorneys} = \frac{\text{Workload Total (3yr avg felony defendants + 3yr avg sentencing Events)}}{\text{Factor}}$$

COMPENSATION BOARD CRITERIA FOR ALLOCATING
NEW PARALEGAL AND ADMINISTRATIVE POSITIONS
IN COMMONWEALTH'S ATTORNEYS' OFFICES

1. The position (or positions) must be requested by the Commonwealth's Attorney as part of the Compensation Board's annual budget request process.
2. Funds and positions must be appropriated by the General Assembly.
3. The Compensation Board will use a staffing standard which establishes the appropriate level of administrative staff support at one administrative support position for every two Compensation Board funded Commonwealth's Attorney and/or assistant Commonwealth's Attorney positions.
4. The Compensation Board will use a staffing standard which establishes the appropriate level of paralegal staff at one paralegal position for every four Compensation Board funded Commonwealth's Attorney and/or assistant Commonwealth's Attorney positions.
5. The Compensation Board shall determine the number of additional positions to be allocated to any one office based upon criteria 1-4, inclusive, and additional positions shall be allocated in the order of percentage of need, where the offices with the highest percentage of need will receive positions first. The percentage of need is determined by calculating the percentage that the number of additional positions needed is of the total number of current positions.

Compensation Board Commonwealth's Attorneys Shared Part-Time Prosecutors

Policy: Pursuant to Code of Virginia §15.2-1534 B7 the Compensation Board promulgates this policy for a part-time assistant Commonwealth's Attorney to serve in more than one locality.

Purpose: To allow Commonwealth's Attorneys to best use available resources by allowing for part-time prosecutors to serve in more than one locality.

Effective Date: The policy and procedures are effective May 1, 2003, unless otherwise noted, and shall remain in effect unless further amended by the Compensation Board.

Procedure: A Commonwealth's Attorney who desires to "share" a part-time prosecutor with another locality must obtain concurrence with the arrangement with a corresponding Commonwealth's Attorney. Items specified in such an agreement must include scheduling, remuneration and term of the arrangement. Such agreements may be terminated at any time by any participating Commonwealth's Attorney but no later than upon the election or appointment that replaces one of the Commonwealth's Attorneys who are party to the agreement.

A copy of the agreement will be provided to each of the participating localities and to the Compensation Board upon its execution and will only become effective upon approval by the Compensation Board per Code § 15.2-1534 B 7.

The Commonwealth's Attorneys office in one locality shall be named as the "host" agency in the agreement. That office serves as "contractor" in the sharing of part-time prosecutor resources. It is the responsibility of the host office to ensure compliance with all appropriate state and federal labor laws and to act as payroll agent for the shared resource. The host agency maintains a permanent position in the Compensation Board's payroll/expenses reimbursement system if the shared prosecutor is to receive fringe benefits reimbursed from the Compensation Board. For locally funded shared positions or in cases in which the shared prosecutor is not to receive fringe benefits the host agency will utilize the temporary funds category.

By signing a sharing agreement, the Commonwealth's Attorneys appoint the designated part-time assistant to a position within their office in accordance with Code §15.2-1626. A shared prosecutor is not eligible to receive payment as a substitute prosecutor in the locality(ies) participating in the sharing agreement.

Frank Drew
Chairman

May 1, 2003